

**COMMONWEALTH OF PUERTO RICO
TELECOMMUNICATIONS REGULATORY BOARD
OF PUERTO RICO**

FCC's Triennial Review Order)	Case Number JRT-2003-CCG-0004
)	
)	Re: Review of High Capacity Business
)	Customer Local Circuit Switching
)	

WORLDNET RESPONSES TO BOARD INTERROGATORIES

WorldNet Telecommunications, Inc. hereby responds to the interrogatories provided by the Board in Attachments I and II of its Resolution and Order approved by the Board in this proceeding on October 1, 2003. In providing these responses, WorldNet notes that it has included and identified information that is competitively sensitive and confidential. WorldNet therefore requests that the Board not disclose to any party any of the information provided by WorldNet herein that it has marked with the designation ** WorldNet Confidential Information – Board Use Only **.

RESPONSES

ATTACHMENT I

- 1. Should the Board make the FCC mandated analysis taking the island as a whole, or should it break it down into smaller regions?**

The Board should not identify and utilize the entire island as a single market in making the FCC mandated analysis in this proceeding. In the Triennial Review Order ("TRO") and resulting rules, the FCC instructed that state commissions "may not define the market as encompassing the entire state." See TRO at ¶ 495; 47 C.F.R. § 51.319(d)(2)(i) ("A state commission shall not define the relevant geographic area as the entire state."). The Board

should, therefore, break the island up into smaller markets for its analysis in this proceeding consistent with the standards set forth by the FCC in the TRO. *See* TRO at ¶¶ 495-97; 47 C.F.R. § 51.319(d)(2)(i).

2. If smaller regions are to be employed, what standard should the Board employ to determine the size of the smaller regions/markets?

The Board should employ the specific standard identified by the FCC in the TRO to determine the markets appropriate for its analysis in this proceeding. According to the FCC:

A state commission shall define the markets in which it will evaluate impairment by determining the relevant geographic area to include in each market. In defining markets, a state commission shall take into consideration the location of mass market customers actually being served (if any) by competitors, the variation in factors affecting competitors' ability to serve each group of customers, and competitors' ability to target and serve specific markets profitably and efficiently using currently available technologies.

See 51.319(d)(2)(i). In creating this standard, the FCC explained that:

State commissions should consider how competitors' ability to use self-provisioned switches or switches provided by a third-party wholesaler to serve various groups of customers varies geographically and should attempt to distinguish among markets where different findings of impairment are likely.

See TRO at ¶ 495. Moreover, the FCC recognized that:

states have implemented varied administrative tools to distinguish among certain markets within a state on a geographic basis for other purposes including retail ratemaking, the establishment of UNE loop rate zones, and the development of intrastate universal service mechanisms. If a state determines, after considering the factors just described, that these already-defined markets would be appropriate to use in this context as well, it may choose to use these market definitions.

See TRO at ¶ 496.

In Puerto Rico, it may ultimately be appropriate and efficient to utilize pre-established retail rate center areas or wire center boundaries to identify applicable

markets in the Board's impairment analysis as the FCC suggests. WorldNet submits, however, that it is premature to select or recommend this or any other approach until a sufficient record is created in this case through discovery and other scheduled activities.

3. Do the GTE / Bell Atlantic merger conditions have any bearing on this proceeding?

To the extent that PRTC is owned and/or controlled by Verizon, WorldNet submits generally that the GTE / Bell Atlantic merger conditions should be considered by the Board in this proceeding as independent and binding obligations on PRTC. WorldNet has previously filed extensive comments on the applicability of the GTE / Bell Atlantic merger conditions with the FCC in CC Docket No. 98-184, and, to the extent that the Board seeks additional input on this issue, WorldNet would direct the Board to these comments (available on the FCC's website www.fcc.gov).

4. Given the short time frame to make a determination in this case, should the Board import evidence from other dockets and require parties to update that evidence to the extent it is relevant?

The Board should import to this proceeding evidence from other dockets to the extent it is relevant. Over the past few years, the Board has been presented with evidence in numerous complaint, arbitration, and generic proceedings relating to PRTC performance and practices with regard to activities that are directly at issue in this case (e.g., collocation, cross connects, UNE-P, number portability). Without limitation, these proceedings include evidence and argument presented by WorldNet in conjunction with an interconnection arbitration with PRTC (JRT-2001-AR-0002) and a subsequent contract enforcement complaint filed by WorldNet against PRTC (JRT-2002-Q-0076).

5. Any other procedural issues that should be discussed at this time?

As noted in WorldNet's Notice of Related Decision filed with the Board in this proceeding on October 16, 2003, the United States Court of Appeals for the Second Circuit recently issued an order granting a motion to temporarily stay the portions of the TRO that contain the 90-day mechanism for state commissions to conduct an impairment analysis for high capacity local circuit switching. As indicated in WorldNet's notice, WorldNet submits that, notwithstanding the Second Circuit's order, the Board can and should continue with its information gathering efforts in this proceeding. As the Board has acknowledged, the TRO contemplates a very short time frame for the Board to consider and resolve significant issues in this proceeding. WorldNet, therefore, submits that the Board should continue with streamlined and efficient information collection in this proceeding, but otherwise stay its analysis of such information consistent with the Second Circuit's order.

ATTACHMENT II

- 1. What is the number of high capacity business customers (DS1 or larger connection capacity) for each of the following services: local service, access service, long distance service, Internet access service, and broadband service? Please divide customers into those served by the LECs' own facilities and those served through resale or UNE-P.**

REDACTED

2. **Provide a list of the all circuit switches used to provide high capacity business service in Puerto Rico, including the physical location of each switch (i.e., the street address), the switch type (e.g., Lecent 5ESS), and the 11-digit Common Language Location ("CLLI") code of the switch as it appears in the Local Exchange Routing Guide ("LERG"). For each switch, please provide a list of all the PRTC wire centers in which your company is using PRTC to provide high capacity business service to one or more customers.**

WorldNet has not deployed any circuit switches in Puerto Rico used to provide high capacity business service in Puerto Rico.

3. **Identify any plans to deploy facilities to provide high capacity business services to business customers.**

REDACTED

4. **Identify the points at which you connect your local network facilities to the networks of carriers, including interconnection with PRTC, other CLECs, wireless carriers, interexchange carriers, or Internet service providers at any point of presence ("POP"), network access point ("NAP"), data center, or similar facility.**

WorldNet does not have any points at which it connects local network facilities to the networks of other carriers because it has not yet deployed its own local network facilities in Puerto Rico.

5. **How many integrated Digital Loop Carrier-Remote Terminals (DLC-RTs) has your company installed in its network?**

WorldNet has not installed any DLC-RTs in Puerto Rico.

6. **Provide data on actual costs incurred by your company to purchase and deploy switches noted in response to question number two (2).**

WorldNet does not have any of the data requested because it has not yet purchased or deployed any circuit switches in Puerto Rico.

7. **Provide any documents and/or describe the efforts your company has made to provide high capacity business service through UNE-P and methods other than UNE-P, including UNE-L.**

REDACTED

REDACTED

8. **Provide any documents and/or describe the efforts your company has made to provide high capacity business service through methods other than UNE-P.**

REDACTED

9. **What ability do you as a LEC have to interconnect with PRTC's network to gain access to its UNE facilities?**

As a legal matter, WorldNet has a right under federal law to interconnect with PRTC at any technically feasible point in PRTC's network in order to gain access to PRTC UNEs. As a practical matter, WorldNet has not yet deployed any of its own facilities, nor sought or obtained collocation in PRTC premises, in order to interconnect with PRTC UNE facilities.

10. **If you are a facilities based carrier, how many switches are interconnected with PRTC UNE loops and how are they interconnected?**

WorldNet does not have any switches interconnected with PRTC UNE loops because it has not yet deployed its own switches in Puerto Rico.

11. **How many UNE sub-loop pairs have other LECs secured from your company? What means was used by the LEC to access these sub-loops?**

No other LECs have secured UNE sub-loops from WorldNet.

12. **What processes does PRTC have in place to accommodate CLEC interconnection with PRTC UNEs?**

WorldNet is currently a party to an interconnection agreement with PRTC that generally sets forth PRTC commitments to provide interconnection with PRTC UNEs. Because, however, WorldNet has not yet deployed its own local network facilities, WorldNet has not yet sought to enforce these commitments and, thus, does not know if PRTC actually has in place any of the processes that it has committed to provide in the parties' interconnection agreement.

13. **How many CLEC collocation sites are available in PRTC offices?**

WorldNet does not currently possess the information requested.

14. **How many CLEC collocation facilities are located in, or adjacent to, remote terminal sites?**

WorldNet does not currently possess the information requested.

15. How many CLEC switches are interconnected with PRTC UNE loops and how are they interconnected?

WorldNet does not currently possess the information requested.

16. To what extent do business customers use wireless phones as a substitute for high capacity business wireline services? Submit information that supports your assessment.

WorldNet does not currently possess the information requested. Moreover, to the extent that the Board has requested such information to consider wireless switching as a substitute for wireline local circuit switching, WorldNet notes that the FCC has expressly rejected such consideration in determining local circuit switching impairment. As the FCC states in the TRO:

We also find that, despite evidence demonstrating that narrowband local services are widely available through CMRS providers, wireless is not yet a suitable substitute for local circuit switching. In particular, only about three to five percent of CMRS subscribers use their service as a replacement for primary fixed voice wireline service, which indicates that wireless switches do not yet act broadly as an intermodal replacement for traditional wireline circuit switches. Lastly, the record demonstrates that wireless CMRS connections in general do not yet equal traditional landline facilities in their quality and their ability to handle data traffic.

See TRO at ¶ 445.

17. What economic barriers exist for a CLEC desirous to enter the high capacity business market without access to PRTC switching?

Without limitation and subject to the development of a complete record in this case, WorldNet submits that substantial economic barriers exist for competitors if PRTC is no longer required to provide access to its high capacity switching. Indeed, WorldNet believes that without such access competitors in Puerto Rico would face perhaps the largest economic barriers to serving high capacity business customers out of all of the jurisdictions governed by the TRO.

First, there are virtually no competitive alternatives to PRTC switching in Puerto Rico. It is WorldNet's understanding that PRTC currently owns about 98% of the local switching

facilities serving Puerto Rico. It is doubtful that any other ILEC governed by the TRO even approaches that measure of continuing market dominance. Simply put, the FCC's notion in the TRO that without ILEC switching competitors could simply switch to excess capacity on existing competitor switches to establish or maintain (much less grow) an economically viable market presence simply does not reflect reality in Puerto Rico.

Second, PRTC is neither prepared nor inclined to make facilities-based competition in Puerto Rico economically possible. To begin with, WorldNet believes that the record in this proceeding will reveal that PRTC has marginal, if any, experience in providing the services and activities involved in competitor facilities deployment. This inexperience alone and the inevitable operational and administrative problems created by it will most certainly increase the economic burden of facilities deployment by competitors beyond what such competitors would face in other jurisdictions.

Perhaps more importantly, WorldNet submits that the economic barriers created by PRTC's inexperience will be compounded by an almost unparalleled history of PRTC process and performance failures in dealing with its competitors. In WorldNet's experience, the cost of PRTC action or performance has in many cases been (1) the cost of months or even years of PRTC inaction and non-compliance, (2) the cost of almost constant WorldNet follow-up and escalation with PRTC on service failures, and ultimately (3) the cost of filing a complaint with the Board. Moreover, even when PRTC has purported to act to satisfy its contractual and legal obligations to competitors, it has responded with ad hoc, piecemeal, unwritten, and often ignored processes, procedures, and performance that increase competitor costs exponentially as well. For example, PRTC did not develop or provide any procedures to make UNE-P available until a year ago (i.e., more than six years after it was required by federal law to do so), and even then it was

done under the shadow of a Board complaint and produced a process that generates consistent and recurring billing errors, unnecessary customer disconnections, and bills based on estimated, instead of actual usage of the UNE-P lines.

Finally, WorldNet submits that Puerto Rico generally is not yet prepared to a point where facilities-based competition would be economically viable without access to PRTC switching. To begin with, unlike many of its counterpart jurisdictions in the states, Puerto Rico has yet to enact or provide comprehensive performance standards for PRTC in its provision of critical services to competitors. The absence of these standards has relegated competitors to trying to create such standards through contractual obligations and, in most cases, extremely costly and extended enforcement proceedings before the Board.

Moreover, as noted above, competitive deployment of local circuit switches in Puerto Rico has been negligible in comparison with other jurisdictions governed by the TRO. Puerto Rico simply has not yet had the opportunity to establish the support systems made up of vendors, consultants, technical experts, and other critical resources that have become readily available in other jurisdictions. Without access to PRTC switching, competitors in Puerto Rico would effectively be forced to incur the cost of creating these support systems from scratch. And, they would be forced to do so (unlike competitors in most other jurisdictions) where the primary opportunity that Congress created to transition to facilities-based service (i.e., UNE-P) has only been made marginally available by PRTC for the last year. Indeed, as noted above, PRTC has yet to honor any requests for high capacity UNE-P circuits.

In short, without access to PRTC switching, competitors in Puerto Rico will, at a minimum, face virtually no existing competitive alternatives, little (if any) PRTC experience in providing the services required for competitive switch deployment, and a demonstrated PRTC

track record of unparalleled and costly service apathy and failures. Each of these factors, and perhaps others revealed in the record to be developed in this proceeding, will create significant and unique economic barriers in Puerto Rico for competitors wishing to serve the high capacity business market.

Respectfully submitted,

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